



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

A.B.

Applicant

-and-

University of Waterloo

Respondent

DECISION

Adjudicator:	Maureen Doyle
Date:	August 1, 2023
File Number:	2016-25441-I
Citation:	2023 HRTO 1142
Indexed as:	A.B. v. University of Waterloo

↳ this is the ONLY application ever heard at the Ontario Human Rights Tribunal. It didn't end in 2017 like the <https://www.canlii.org> website by the government of Canada says.

2016-25441-S

↳ evidence that it

never ended in 2017

↳ <https://www.canlii.org> is defrauding who I am to cover up hate using psychiatric profiling for extermination socially as a hate crime.

↳ where is the Decision?

↳ NEVER UPLOADED TO

CANLII at all

↳ Fraud



Ontario
Registrar
General

Bureau du
Registraire
général

100 Broadview Ave.
Toronto, Ontario
M4E 1B1

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01654366-001

AULA MOHAMED FARAG BESEISO

19 KEDGEWICK COURT

NEPEAN ON K2G 4M9

EXPD

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Ontario CANADA

CHANGE OF NAME
CHANGEMENT DE NOM



Form 25A - Formule 25A
Vital Statistics Act - Loi sur l'état civil

C0314302

Birthplace / Lieu de naissance

OLD/VIEUX: BESEISO, AULA MOHAMED FARAG

NEW/NOUVEAU: BASEESO, ALEXA

PALESTINIAN TERRITORY,
OCCUPIED

Date of registration - Date d'enregistrement

AUGUST 22, 2017

Registration number - Numéro d'enregistrement

2017-05-008026



Alexandra Schmidt
(Deputy Registrar General)
(Registraire général adjointe de l'état civil)

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Registrar General
(Le registraire général de l'état civil)



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APPEARANCES

A.B, Applicant	)))	A.B., Self-represented
University of Waterloo, Respondent	)))	Darrell N. Hawreliak, Counsel

[1] This Application alleges that the respondent contravened the terms of Minutes of Settlement (MOS) it signed with the applicant, in respect of an earlier application she had filed alleging a breach of the *Code*. The applicant filed this Application on September 9, 2016.

[2] The applicant alleges several breaches of the MOS and seeks various remedies. The hearing of this matter was bifurcated, with only the merits of the allegations being considered, and should the applicant have been successful, appropriate remedies would have been addressed subsequently.

[3] This hearing spanned numerous days, with the self-represented applicant often seeking to provide evidence and argument relating to her original application which resulted in the MOS at issue, as well as making allegations regarding matters not addressed in the MOS, dating both before and after the MOS. Given the applicant was self-represented and also given her disability of OCD and Generalized Anxiety Disorder, the applicant was given leeway in presenting her case. She made frequent reference to a Case Assessment Direction (CAD) from her original application, in which production was ordered for that process, and argued that the respondent's delay in providing documentation was evidence of bad faith. She also sought to establish that entering the academic program in which she had been enrolled at the respondent, she had good marks, good academic references, and a commitment of financial support from the university, and that this was all inconsistent with the drop in her marks which lead to her initial application. She also provided evidence regarding her attempts to obtain what she refers to as a "retroactive withdrawal" both before and after the date of the MOS. The applicant testified and made submissions regarding many wide-ranging complaints she has regarding her interactions with the respondent university. In this decision, however, in addition to her allegation regarding having been misled about the availability of "retroactive withdrawal" and her assertion that that the respondent's response to the original application was not reliable and led her to execute the MOS, only the allegations of contravention of the MOS will be considered and determined.

[4] The applicant was frequently repetitive and argumentative in the course of the hearing. She was reminded on more than one occasion that civility was expected and that without adherence to that expectation, the Tribunal may direct the parties to provide submissions regarding abuse of process. Again, as an accommodation of her disability, she was provided with several opportunities to correct her comportment during the

hearing. The applicant often made submissions in the course of the hearing and was reminded that submissions are made at the end of the hearing.

[5] The final day of hearing was taken up with the remaining evidence and was just prior to this Vice-Chair's final day at the Human Rights Tribunal of Ontario. Initially, the parties were to have both made final submissions in writing, following the final day of evidence. The parties agreed that the respondent would provide submissions first, in order to furnish the applicant with an example. The respondent provided its written submissions. The applicant wrote seeking an extension of time for making submissions and also stated her difficulty with producing written submissions. The Tribunal gave the applicant the requested extension for submissions, as well as a choice of providing her final submissions orally by means of a recording, or written final submissions. The applicant chose to provide written submissions.

[6] Additionally, also as an accommodation of the applicant's disability, she was permitted to make audio and video recordings of these proceedings, for her own use, in order to permit her to review the hearing as it proceeded and in order to allow her to prepare as the hearing continued. These recordings were made as an accommodation and the use to be made of the recordings is limited to these proceedings. The applicant is directed not to share or publish any of these recordings, or any portion of these recordings, by way of the internet, social media or by any other means.

[7] Several witnesses testified at the hearing. Dr. Tracy Morgan, Ph.D., C. Psych, who provides services at the university, and the applicant herself, testified on behalf of the applicant. Testifying on behalf of the respondent university were Dr. Jeff Casello, Associate Vice President for the Graduate Studies Office; Dr. Jean Andrey, Dean of the Faculty of the Environment; Mr. Jason Testart, Director, Information Security Services at the respondent university; Dr. Jennifer Gillies, Associate Director of AccessAbility Services at the university; and Dr. Simron Singh, professor and since July 2016 Associate Dean of the Faculty of the Environment.

[8] For the reasons below, the application is dismissed.

THE ALLEGATIONS

[9] The applicant was a graduate student at the Masters level at the respondent university, in the Faculty of the Environment, in a program known as Local Economic Development, or "LED". She filed an application alleging discrimination. The parties signed Minutes of Settlement in respect of that application on March 8, 2016. Those Minutes of Settlement (MOS) are the subject of this Application.

[10] In this Application, the applicant also alleged that the Vice-Chair who worked in mediation/adjudication with the parties, leading to the above-noted MOS, was biased. The Tribunal convened a hearing and issued an interim decision in this file, dismissing her allegations regarding bias, at *A.B. v. University of Waterloo*, 2017 HRTO 946.

[11] With respect to the MOS itself and its terms, the applicant's allegations may be summarized as follows:

i) she signed the MOS because the respondent fraudulently misled her about the possibility of "retroactive withdrawal" from courses;

ii) she signed the MOS in the face of the university's Response to her original application, in which it disputed, among other things, the quality of her work at the university and her participation in the accommodation process;

ii) the respondent university contravened portions of paragraph 4 of the Minutes of Settlement. Paragraphs 4 through 6 of the Minutes of Settlement read as follows:

4. The Respondent will allow the Applicant to be re-admitted to the Master's degree program in Local Economic Development ("LED") of the Respondent, upon the following conditions:

- Dr. Simron Singh, Associate Professor in the School of the Environment, Enterprise and Development of the Faculty of the Environment of the Respondent, will act as the first and primary contact for the Applicant, and as the decision-maker in consultation with the Associate Dean of Graduate Studies of the Faculty of Environment, for all matters pertaining to the Applicant, as the Applicant works towards completing her Master's degree in the LED Program.
- The Applicant is required to complete a four month Internship, which Internship must be pre-approved by Dr. Simron Singh. The Applicant must be enrolled full-time with the Respondent while doing the Internship and will pay the tuition fee in full to the Respondent in regard to the full-time enrolment during the Internship.

- The Applicant will have access to the same information in regard to securing an Internship as is provided to all other LED students by the Respondent, but the Applicant herself bears the responsibility for finding an appropriate Internship.
- Should the Applicant be able to secure an appropriate pre-approved internship for the Spring term of 2016, the Applicant must complete two required courses for the LED program in Fall 2016, and two required courses for the LED program in Winter 2017. The Applicant will pay the required tuition for these terms and may consider herself to be full-time enrolled in both these terms if she so chooses.
- Should the Applicant be unable to secure an appropriate, pre-approved Internship for the Spring term of 2016, then the Applicant may choose to:
 - i. work on the Major Research Paper in Spring 2016 and do the Internship in a later term;
 - ii. delay re-admission to the program to Fall 2016, take course in Fall 2016 and Winter 2017, and then do the internship in Spring 2017, or
 - iii. decide not to continue with the LED program at all.
- The Respondent will allow LED 6612 to count as the Applicant's thematic elective, therefore allowing the Applicant to take 2 open graduate-level electives. The remaining two required courses which the Applicant must complete are LED 687, and either LED 688 or LED 615, the latter two courses in substitution for LED 613, which the Applicant shall not take.
- The Applicant must complete a Major Research Paper. The Applicant must choose one of the following persons for her academic advisor for the completion of the Major Research Paper: Dr. Emanuel Carvalho (Associate Professor, Department of Economics, Faculty of Arts), or Dr. Olaf Weber (Associate Professor, School of Environment, Enterprise and Development, Faculty of Environment), or Dr. Jennifer Lynes, Associate Professor, School of Environment, Enterprise and Development, Faculty of Environment).
- The Applicant must meet the minimum Master's degree requirements of the Respondent, including obtaining an average of at least 70% in the courses (including the Internship and the Research Paper) as described above in fulfilment of the degree requirements. The marks received by the Applicant for her course work in 2012 will not be included in the calculation of this 70% requirement. Failure to meet the minimum Master's degree requirements in this regard will result in the Applicant being withdrawn from the LED program. The Applicant must adhere to all policies, procedures and guidelines of the Respondent, just as is required for any other member of the Respondent's community.
- The University of Waterloo email account registered to the Applicant will be un-blocked once the Applicant registers with the Respondent and

pays her tuition in full. The Applicant must maintain a level of civility in emails when corresponding with the faculty and staff of the Respondent which is commensurate with that expected of graduate students and which conforms to appropriate behaviour as outlined in the policies of the Respondent. The Applicant agrees that she will not communicate or attempt to communicate by any means or for any reason with Dr. Tara Vinodrai of the Faculty of the Environment, or with Ms. Marianna Denes of the AccessAbility Office of the Respondent.

Form 25

5. The Parties agree to waive their right to an oral hearing and request the Tribunal to dispose of the Application through the filing of a completed and signed Form 25. The Parties agree to file the Form 25 as soon as reasonably possible upon signing the Minutes of Settlement.

RELEASES

Applicant's Release

6. In consideration of the above, the Applicant, on behalf of herself, her heirs, executors, administrators and assigns, hereby releases and forever discharges the Respondent and the Respondent's respective employees (faculty and staff), volunteers, officers, members, directors, senators, governors and their successors and assigns, from all claims, demands, actions, causes of action, applications, complaints or causes for complaint under contract, common law, or statute, including but not limited to the Employment Standards Act, 2000, Human Rights Code, Labour Relations Act, Occupational Health and Safety Act, up to the date of this settlement, that arise out of or in any way relate to the Application or the allegations or events set out in the Application or related documents.

[12] In particular, the applicant alleges that the following are contraventions of paragraph 4 of the MOS:

a. Dr. Simron Singh did not act as a contact for her as he was away from the country for a portion of the relevant time, he did not always respond to her in a timely fashion and he was not active in assisting her. In the Form 18 itself, she also alleges that "Dr. Simron ensured that confusing and inconsistent messaging was communicated to the applicant. This information was in direct breach of the settlement agreement". For clarity, the Tribunal notes that at several points in correspondence, the applicant refers to Dr. Singh as Dr. Simron;

b. she should have had the opportunity to enrol on a part-time basis, but due to her disability, should have had the option of being considered full-time in any event;

c. she should not have had to pay full-time tuition when she was only carrying a partial load; and she had difficulty accessing her email account at the respondent university, and due to these technical difficulties with her

email account, she had difficulty with registering for courses and making the required tuition payments.

BACKGROUND

[13] By way of background, the applicant had, in February 2013, filed a "Notice of Challenge" regarding her marks from the Fall term of 2012. Dr. Andrey received, accepted and reviewed the Notice. According to Dr. Andrey's March 7, 2013 correspondence to the applicant, which contained her decision, she reviewed the applicant's 55 page Notice of Challenge, distilled it to a chart showing the course components, relief requested and basis of the challenge, and included a number of questions for clarification. Dr. Andrey indicated in her March 7, 2013 decision that she had sent the chart to the applicant on February 21, 2013, and that on February 25, 2013, the applicant responded with a 10 page response. Dr. Andrey then provided her decision in the correspondence, and concluded by stating "according to UW Policy 70, you can appeal my decision within 10 days of notification, provided a ground for appeal can be satisfied. See Policy 72 – Student Appeals".

[14] Ultimately the applicant was removed from the program. She began to receive treatment for her diagnosed OCD and Generalized Anxiety Disorder, and sought re-admission to the program at the respondent. On July 26, 2014, she wrote an email to Jim Frank, the Associate Provost, Graduate Studies at the time. She stated as follows:

Hi Jim,

I asked to get re-admitted or to get a backdated withdrawal from the program. What happened to me was not fair & the appeal went in my favour because it was found that I was not accommodated. I am pretty surprised at the level of prejudice against me & asked for a chance to improve my unfair marks where I was not accommodated or get a backdated withdrawal like I never went into the program. I want to know why I am not re-admitted as well. The only thing clear here is that people with special needs are not welcome at Waterloo University.

I would like to know why?

[15] On August 13, 2014, in-house counsel at the respondent at the time, Sian Williams wrote to the applicant, stating that the applicant's correspondence to Dr. Frank had been forwarded to her for reply. She stated that the respondent had fully considered the question of re-admission but determined that the applicant would not be readmitted, and the decision was final. She also stated:

Further I must advise that the University of Waterloo could not consider your surprising request noted below to obtain a 'backdated withdrawal from the program'. The university does not "backdate" documents or records, as to do so is to commit fraud.

Therefore, your request of the University to take such action has been entirely ignored. Again, the University of Waterloo considers this matter closed.

EVIDENCE

The Mediation and "Retroactive Withdrawal"

[16] The applicant testified that the mediation meetings which resulted in the MOS at issue took two days and that the agreement was reduced to writing and signed on the second day. She testified that Dr. Morgan was seated in the hallway outside. She testified that she believes she understood the MOS and that she signed them as she believed it was the only way she could finish her degree. She also testified regarding her displeasure with the University's failure to agree to mention her disability in the MOS and asserted that she did not have all the documents she wanted when she signed the MOS.

[17] In cross-examination the applicant agreed that before coming to the respondent as a student, she had two undergraduate degrees, and confirmed she is fluent in English. She testified she had done well in her undergraduate studies, graduating with distinction. She agreed that other than being unfamiliar with various pieces of legislation referenced in the Release, she understood the MOS. She stated that she felt she had no option but to sign the MOS and did not sign willingly. She signed as she felt if she did not, she could never finish her Masters degree. She also stated that at the time she signed, she was a "kid", as she was 27 years old. She felt that with the grades given to her, which she believed were "defrauded", she had no option to go elsewhere. She stated the respondent and the Vice-Chair who assisted as mediator told her there was nothing that could be done about her grades. She testified that she filed this application because she believes she was misled and the MOS should be set aside; the respondent did not live up to its obligations; and there was nothing in the MOS which addressed accommodation for her disability.

[18] As noted above, the applicant asserts she was fraudulently misled about the possibility of retroactively withdrawing from courses by Ms. Williams' August 13, 2014 email above, and that she signed the MOS on March 8, 2016, believing that "retroactive

withdrawal" was impossible. She says that she subsequently learned from a former fellow student that "retroactive withdrawal" is possible. She also states that the former fellow student was blonde and the applicant alleges that she was misled about the availability of "retroactive withdrawal" due to her race. She testified that when she found out "retroactive withdrawal" is available, she applied for one. She did not call the former fellow student as a witness, though in the course of the hearing and in view of a "hearsay" objection from the respondent, I reminded her that she has the option of calling the student to testify. She chose not to call that individual as a witness. She called her psychologist at the time, Doctor Tracey Morgan, to testify at the hearing. Dr. Morgan was employed at the respondent, working in the counselling services area.

[19] On June 7, 2016, Dr. Morgan wrote to the Graduate Studies department at the Respondent, to support the applicant's "petition to be able to withdraw retroactively without penalty from (a) the fall 2012 term and (b) the May to August 2016 term". She stated that she met with the applicant in February 2013 and diagnosed the applicant as having Obsessive Compulsive Disorder (OCD) at that time. She also met with the applicant in May 2013, once in July 2015 and again in May 2016. The applicant had not received treatment for her disability in Fall 2012. The applicant advised her that though she was supposed to have a reduced course load in Fall 2012 and other accommodations, she had not received them. Dr. Morgan opined that the fact the applicant had not been treated for OCD in the autumn of 2012 and the "absence of accommodations in the Fall 2012 term" were the reasons "that she was not able to perform to her academic potential and did not meet the required average".

[20] Dr. Tracy Morgan wrote to the Tribunal on July 29, 2016, stating she was writing at the applicant's request to provide her history of counselling and to advise she had written to the University in support of the applicant's petition for retroactive withdrawal without penalty, but no one had contacted her regarding that matter. She also stated the applicant wanted her to advise she was experiencing a very high level of anxiety symptoms, which the applicant said she "developed in response to several experiences at the University of Waterloo". She went on to recount the applicant's experiences with the University in 2012. She also stated that the applicant had asked her to advise that she and the applicant had been in contact in July 2015 regarding efforts to obtain her file from AccessAbility Services at the university. She stated that since February 2013, the applicant has had a diagnosis of OCD and also stated she has diagnosed the applicant with Generalized Anxiety Disorder. Dr. Morgan wrote another letter to the Tribunal on

December 22, 2016. In that letter, she stated she was writing to provide a "briefer version" of her July 29, 2016 letter, and to focus on the issue of retroactive withdrawals. She also stated that she supported the applicant's request to make audio-recordings of meetings at the Tribunal as an accommodation of her specific mental health conditions.

[21] Dr. Morgan testified it is her understanding that a student may apply for "retroactive withdrawal" after the respondent's deadline for withdrawing from courses without academic penalty. If for extenuating circumstances a student withdraws from a course before the respondent's deadline for withdrawal, their transcript will show they withdrew from the course but there is no grade showing. Sometimes, due to extenuating circumstances, students withdraw after the respondent's deadline for withdrawal without academic penalty, and in such circumstances, what shows on the transcript is "W/F" which stands for "withdrawal/failure" or a mark of 32%. She testified she is aware that generally, the respondent's Policy 70 governs these requests, and she has written letters for students who apply for withdrawal after the deadline to have notations on their transcripts which indicate withdrawal without academic penalty. She testified that some students for whom she has written letters of support have been granted withdrawal and other students have not. She testified she is sometimes contacted by the student's faculty about these letters, and other times she is not.

[22] The applicant pointed to the respondent's Policy 70, which she stated is on the respondent's website, and which she states has been in existence since 1989. Policy 70 is titled "Student Petitions and Grievances", and includes descriptions of what Petitions are used for and what Grievances are used for, and includes links to forms for each type of process, as well as a description of the procedures used in each process.

[23] Dr. Jeffrey Casello, who in July 2016 was appointed Associate Vice President for the Graduate Studies Office, testified on behalf of the respondent about the content and application of the university's policies regarding grades, Student Petitions, Grievances which include Notices of Challenge (Policy 70), and Student Appeals (Policy 72). He testified he has applied these policies many times, and the policies are published on the university's website.

[24] He testified that Policy 70 is a policy which includes Petitions and Notices of Challenge/Grievances, which he explained are used in different circumstances. He testified that if a student agrees that a mark assigned to them was fairly awarded, but they

seek an exception from the normal rules and regulations, they file a Petition under Policy 70. The Policy states: "Typical examples include, but are not limited to, adding or dropping a course after the deadline, removing a WD/WF grade for late drop, increased or reduced course load and reconsideration of an end of term promotion or other academic decision". The Policy states that in a Petition, the "student acknowledges that the rules were applied fairly and he/she is asking that an exception be made". The Policy provides a Procedure for filing Petitions. He testified, and the Policy states on its face, that decisions regarding Petitions cannot be appealed.

[25] On the other hand, he testified, Policy 70 states that a student may file a Grievance where the student believes that a decision of a University authority or the action of a faculty member or staff member of the University affecting some aspect of his/her University life has been unfair or unreasonable. The Policy provides several examples of things a student may allege in such circumstances, including an error in academic judgment by an instructor in grading, an unfair method of evaluation, bias, etc. The Policy provides a Procedure for this also, and it indicates that for a grievance in an academic setting, the student submits a "Notice of Challenge" form. He testified, and the Policy states on its face, that decisions regarding Grievances can be appealed, and refers to the possibility of filing an appeal.

[26] Dr. Casello testified that when students submit Grievances, the signed form they submit requires them to confirm that they have read and understand the Policy. The process which the applicant chose to employ when she disputed her marks from the Fall of 2012, was the Grievance Process, which she engaged by submitting a Notice of Challenge. The Grievance Process is not a process which may result in a mark being replaced by "C" (for "credit granted") or "NC" (for "no credit"). Policy 70 indicates that the Petition process, not the Grievance Process, is the one which should be used by a student seeking an exception to a university rule or regulation for exceptional circumstances.

[27] Dr. Casello testified the term "retroactive withdrawal" is not one he has found to be used regularly by the university. When the applicant explained at the hearing that what she sought was to have her transcript altered to expunge reference to the courses she took in the relevant term, Dr. Casello testified such a measure is not available under the university's policy. When presented with the letter from Dr. Morgan, which makes reference to "retroactive withdrawal without penalty when extenuating circumstances negatively affected their academic performance", he testified he would understand this to

be a reference to the Petition process, as that is the process under Policy 70 where exceptional circumstances are referenced. He testified that he often gets letters of support from counsellors who seek to provide evidence for a student filing a Petition. Dr. Casello's evidence was that while a Petition may result in having no mark displayed on the transcript, there would nonetheless be an indication that the student took the course. This was consistent with the evidence of Dr. Morgan, who testified she believes the letters of support she writes for students result in a notation on the transcript that the student withdrew from the course, but no mark would appear.

[28] Dr. Andrey also testified that "backdated withdrawal" or "retroactive withdrawal" are not terms which reflect the university's practice and policy. She testified her understanding is that once courses are completed, they cannot be removed from the university's record, though they may be ignored for purposes of calculating a student's average, by exception. She stated that the purpose of a student's transcript is to serve as an official record by the university. It records a number of items and information includes courses the student enrolled in and completed, the student's grades, milestones such as Internships, coop placements, Major Research Papers (MRPs), and degrees awarded. She testified that transcripts are sometimes consulted by other educational institutions, and by employers, regarding the student's achievements. She testified accuracy is important to the integrity of the system, and transcripts must honestly reflect the student's time and activities while enrolled at the university. She testified this is the case because all institutions trust each other to be accurate so they can make decisions regarding admissions and scholarships. Further, reports the university makes to the government must be supported by the records it keeps. In this way, she testified, it is important that there is a record of the applicant having taken and completed certain courses in the Spring of 2012. She testified that whether a student's grades stand or are changed, for example to show "CR" as a result of the petition process, are more minor issues. What is important, she testified, is that the record show whether the student enrolled in and completed the course.

[29] In cross-examination, the applicant asked Dr. Andrey why she had not granted her the designation "W/D" under Policy 70. Dr. Andrey testified the applicant had filed a grievance, not a petition. When the applicant asked her why she had not ensured that the applicant understood the options under Policy 70, Dr. Andrey testified that when filing a Notice of Challenge, students sign to indicate they have read and understood Policy 70, which indicates the difference between grievances and petitions

[30] Subsequent to execution of the MOS, the applicant exchanged emails with Ms. McConnell, assistant to the Associate Dean Graduate Studies, regarding her request for a "retroactive withdrawal". On June 2, 2016, Ms. McConnell wrote her to say that she was looking into the applicant's request to see if the regular change of enrolment status would be the correct form, or if there is a different process. After further emails back and forth, on June 7, 2016, Ms. McConnell wrote her to tell her she had discussed the applicant's request for a backdated withdrawal with the Graduate Studies Office, who advised her such a request must come from the Faculty. She stated that she had since met with Dean Andrey and Dr. Simron Singh, and Dr. Singh would advise her of the outcome of her request in due course. Also on June 7, 2016, the applicant wrote to Ms. McConnell, stating, among other things that she was forwarding a "petition letter to this email with all evidence" for Ms. McConnell to forward to "the right person".

[31] Emails between the applicant and Dr. Gillies regarding the applicant's inquiries in 2016 regarding "retroactive withdrawals" were introduced into evidence. Dr. Gillies sent the applicant an email on September 7, 2016, providing information regarding the process where students seek "retroactive accommodation". As for the applicant's questions regarding "NCR/CR and WD's", Dr Gillies advised this was outside the scope of her practice and she could not provide information. She also indicated however, that she contacted the Associate University Secretary for her opinion and was informed that:

as indicated in the Graduate Studies Calendar, NCR/CR courses carry no grades and are designated as such in the calendar. An NCR/CR indicates that the student participated in the course of the term. A WD indicates that a student was enrolled in the course, but did not complete the course attempt. There is no grade assigned to a WD. A WD does not replace a transcript grade with an NCR/CR as the course was not completed.

[32] She invited the applicant to contact the Associate University Secretary for further information. The applicant responded to this email by asking what a "retroactive withdrawal" looks like on a transcript and asking how to apply for a retroactive withdrawal. She wrote again on September 27, 2016, repeating her inquiry.

[33] There was no evidence from Dr. Morgan or from the university's witnesses to indicate there is a policy or procedure which would result in expunging from a transcript, all reference to a course a student has taken.

[34] The applicant submits that the fact she applied for "retroactive withdrawal" on May 25, 2016 from her pre-MOS courses and has not received a response, is evidence of dishonesty and confirms bad faith on the university's part. As noted above, the matter of a post-MOS, May, 2016 application for retroactive withdrawal is not before the Tribunal in this Application. With respect to the applicant's assertion that before signing the MOS, she was misled to believe that retroactive withdrawal was not possible, the Tribunal addresses this issue only to the extent highlighted in the "Decision" section below.

Events during Spring Term 2016 related to the MOS

[35] Dr. Singh testified that at the time the MOS were being drafted, he was asked by Dr. Paul Parker, Associate Dean, and Dr. Andrey, Dean of the Faculty of the Environment, if he would agree to being a contact and support for the applicant. He agreed and his name was incorporated into the MOS. He did not recall much about the discussion, but knew he was to support a student in the LED program who was returning to school, and would he be willing to be her first contact and support.

[36] The applicant testified that she could not recall if she had emailed or called Dr. Singh between the date of the Minutes of Settlement, March 8, 2016, and the day she arrived in Waterloo, April 19, 2016. On cross-examination, she agreed he had been available in this time period. The applicant testified she arrived in Waterloo on April 19, 2016, once Dr. Singh told her he had approved her Internship at the Survey Research Centre (SRC). She testified that she arrived before the start of classes, and wanted everything to be organized before classes started. The applicant testified that as soon as she arrived in town, she went to Dr. Singh's office, but he was not there. She called him, but he was not in the country. They subsequently communicated through emails. The applicant testified Dr. Singh was very kind and polite, but was not available. She also testified that according to the MOS, she was prohibited from speaking to anyone but Dr. Singh. Elsewhere in her testimony, she stated she was not forbidden to communicate with "administration", just with the "Director". She testified Dr. Singh was not available for in-person meetings and he was not always available by email. The applicant agreed in cross-examination that Dr. Singh approved her work at the Centre as an Internship. She also agreed that the Minutes referenced 2 LED courses for her to take in the Fall and that she was not required to take them in the Spring 2016.

[37] On April 5, 2016, the applicant sent an email to Ms. McLay at the SRC, regarding the "SRC Job Application". In her email she stated she needed work in order to be able to move to Waterloo and be close to her advisors. She copied Dr. Singh on her email and stated he was her program director and was the one who suggested she contact Ms. McLay "for the attached work opportunity in the Survey Research Centre". She concluded stating that if it was "too late to get employment doing this work; I would appreciate it if you can suggest where else on campus I can find full-time work so I can move back to Waterloo". She was granted an interview for the position and then on April 7, 2016 wrote again to Ms. McLay stating "My program director, Dr. Singh (copied on this email) forwarded your position to me and he said that depending on the terms of reference of this position, that he might be able to approve it in fulfillment of my internship requirement. I am inquiring if it may be possible for both of you to discuss an arrangement that could make this possible".

[38] On April 7, 2016, Ms. McLay wrote back stating in part as follows:

Given the questions in your email, I want to make sure that you understand that the position we are interviewing for is considered a casual position. We require a minimum commitment of 15 hours per week, however given the ebb and flow of telephone interviewing project work of our centre, we cannot guarantee that 15 hours a week of work will always be consistently available for each interview. There may also be some weeks between projects where there might be no work. I want to be up front with you as I realize many of our interviewers depend on part-time work to pay expenses. The pay for the position is \$12.25/hour. I am not sure if this arrangement qualifies for an internship but if you are selected for the position, I am willing to discuss it further with Dr. Singh if he likes.

[39] Dr. Singh was asked to comment on an April 5, 2016 email which the applicant wrote to Ms. McKay and whether he had any problem with her contacting Ms. MacKay directly instead of contacting him. He testified he did not, as it was regarding an Internship and it would be expected that she would contact potential employers, including any at the university itself.

[40] Dr. Singh and the applicant exchanged emails regarding the position at SRC and on April 7, 2016, he emailed her to wish her luck in her second interview and told her he had given her a positive recommendation for the position.

[41] On April 7, 2016, the applicant wrote to Dr. Singh to thank him and tell him about other jobs for which she had applied, which might work for the Internship. She also stated

she was "open to any employment in the summer in Waterloo so I don't tap into my savings. Maybe I can take a course as well and start on my paper but I need to make sure I find more work to secure my rent and food". She closed by asking him to keep her in mind if anything further presents itself and thanked him for the "positive reference and support".

[42] In an email dated April 8, 2016, Dr. Singh wrote to the applicant telling her he understood her situation and was doing his best to help her where he could. He also suggested she begin to contact potential supervisors in case she decided to do her Major Research Paper (MRP) in the Spring 2016 term, and in any event this would give her time to get to know them and start to think about her MRP. He also reminded her to keep in mind the spring tuition fee deadline, if she planned on doing anything related to the LED degree requirements.

[43] In cross-examination, the applicant asked Dr. Singh what the significance is to a student of a tuition deadline passing. He testified the student may continue their studies, but he was not certain at what point they would stop being considered a student. He also testified that in the applicant's case, when the tuition deadline passed she was not signed up for courses, but her Internship could have continued. Dr. Singh's evidence did not change when he reviewed a May 22, 2013 email from Ms. MacLean to Dr. Andrey which states that there were at that point 4 LED students who had not arranged their fees, and that they had been sent reminders, and goes on to state that if they have not paid by June 3, 2013, they would be deregistered from the program. He testified that in fact it indicates there is a period of weeks between the payment deadline and when a student would be deregistered.

[44] The applicant subsequently wrote to Dr. Singh to tell him she had been offered the job at SRC after the last interview, and would be starting April 22, 2016. She asked if it would count for the Internship and stated Ms. McLay was happy to discuss the terms of reference further with him. She also stated she would "contact all profs for the MRP via email and copy you". Finally, she stated she "also wanted to discuss taking 2 courses and when is the tuition deadline?" She testified that she did begin working at the position at the SRC on or about April 24, 2016.

[45] The applicant testified that between March 8, 2016 when she signed the Minutes of Settlement, and April 9, 2016, she was not able to register for courses as she needed

a User I.D. She does not indicate when she first made inquiries about getting a User I.D. On April 9, 2016, the applicant wrote to Sian Williams stating that she needed to register for courses but her account was not working. She asked to have her account reactivated, as the Spring tuition deadline would be April 25, 2016. On April 10, 2016, Sian Williams wrote her back, stating that she had asked her assistant to contact the appropriate people to help the applicant with her account.

[46] On April 11, 2016, Dr. Singh wrote back to the applicant regarding the work at the SRC, stating he would need to see the terms of reference for the job to know if it would qualify for an Internship or not. He stated he had the job description from Ms. McLay and asked the applicant if that was what she wanted him to review. If not, he told her to ask Ms. McLay for the terms of reference and forward them to him as soon as possible for him to review. He said he would then speak with Ms. McLay if necessary. He also stated as follows:

The second issue for you to consider is the length of employment. From what I have read, this is a part time position (15h per week). Which is not a problem, but in order to satisfy LED degree requirement, you need to be working equivalent to 4 full time months, that can be spread to more than 4 months. Did you see the PowerPoint slides Michelle sent you? They are attached again. Please look through them, and there are notes beside each slide. It is very helpful to review, so you know the requirements.

The good news is that while working part time, you can either work on your MRP alongside, or even take up a second part time job that can qualify towards your internship. So, there is quite some flexibility here.

Which courses are you planning on taking, and in which term(s)?

Once again, here is the link to the spring 2016 tuition fee:

<https://uwaterloo.ca/finance/late-fees-2015-2016> academic year

Due: April 25, 2016

Late fees begin April 26 and run until June 30.

[47] Dr. Singh also testified that in an email to the applicant on April 13, 2016, he sent her a link with information regarding finding electives, and he also testified he advised that she take electives which would help her with her MRP topic.

[48] The applicant stated that as a person with a disability, and according to the MOS, she should be permitted to consider herself a FT student, even if she is only doing 2 courses instead of 4. She does not, however, agree that she should be required to pay

FT fees in those circumstances. When Dr. Singh sent her an email on April 13, 2016 explaining how tuition is calculated for the program, and that no matter how many courses an individual is taking they must pay for the term, she testified that was not what she understood. The applicant testified that Dr. Singh “wanted to overload” her. She stated he had not been advised of her disability and the fact that she should have been able to have a part time load. The applicant testified that according to the MOS, she had the right to decide if she was going to be Part-Time or Full-Time. Further, she said the MOS say she has to do a 4-month Internship but Dr. Singh told her she had to do an 8-month Internship and pay full-time tuition. She testified that he also told her that when she paid her full tuition, she would be able to register for courses.

[49] The applicant testified she was only allowed to speak to Dr. Singh, and according to the MOS, she was prohibited from speaking with anyone else in her department. She testified that without access to him for information about courses, she was left to find courses on her own. She testified that all course approvals are supposed to go through another professor, but she had to have hers approved by Dr. Singh, who had to “run everything by Dr. Andrey”. Dr. Singh had suggested that while she is at the SRC, she could do her MRP, but she testified she did not know the process for doing an MRP. In her view, Dr. Singh made suggestions, but did not give her any instructions. She testified that to communicate with professors about doing an MRP, she would have to register in a program. She also gave evidence, however, that she had contacted professors. She gave no evidence that she had explored the possibility of doing an MRP and was turned away. She says she “looked into the option and spoke to professors”, but did not do more as she had no status. She did not know if she had to be taking courses to do an MRP.

[50] On April 13, 2016, the applicant emailed Ms. Williams, copying a member of administrative staff at the university advising she identified the courses she wanted to take and wanted to register and pay for her tuition before the late fees deadline. She testified she had to go through the respondent’s legal counsel as she did not have access to Dr. Singh, and Dr. Singh could not process “administrative needs”. In her email, she states that she needs access to her university email and asked for “a time-frame” so she could pay, and also asked about getting a new student card. She stated that the Internship had been approved, but she still needed to register for it. She testified that at a certain point it is too late to register for courses, and she was worried about late fees and that she would not be able to “catch up” due to her OCD. She testified she was still having problems registering and knowing what her fees would be.

[51] Ms. Williams responded to her email a few minutes later, telling her they had received information that day that the graduate studies office had reactivated her registration and her email account was live and accessible using her old password. She advised her that her student number remained unchanged and gave her instructions for getting a new student card in case her old one was lost or expired.

[52] The applicant testified she could not remember her old password. There was no evidence before the Tribunal regarding efforts she made to retrieve or change her password. She also testified she did not know what the email meant as she "could not register". She testified that she did not pay tuition for the Spring 2016 term as she was not allowed to register. When asked in cross-examination if she had paid for the Spring 2016, whether she would be permitted to do the Internship and a Major Research Paper (MRP), she said she did not know the process for doing an MRP, and Dr. Singh had made suggestions about such things, but she had no other instructions. She stated it was not really an option for her as "to communicate with other professors you needed to be registered as Full Time in the system". There was no supporting evidence of such a requirement before the Tribunal. She also testified that she contacted the professors she was interested in working with, but that she was not able to "register for it" as she was not considered a student. There is no evidence that she brought this to the attention of Dr. Singh. The applicant testified that a student needs email to register and pay fees. She agreed in cross-examination that it is not necessary to pay tuition in order to be registered as a student. She also insisted, however, that as she was not registered for courses, she had "no status" at the university. When asked in cross-examination if an MRP has to be linked to a course, she testified she did not know, and had no clarity or information regarding it. There was no information before the Tribunal regarding her efforts to obtain that information.

[53] The applicant's April 13, 2016 email exchange with Ms. Williams was put in front of Dr. Andrey and she testified she was not aware of any reason why the applicant would have been unable to pay the required tuition as of April 2016, nor was there any bar to her enrolling in classes, and she was able to contact professors, and accessibility services at the university. The applicant would have had, according to Dr. Andrey, the same lines of access of communication as would other students. She also testified that on April 11, 2016, she emailed Jim Frank, who at the time was the Associate Provost of Graduate Studies, to advise him the applicant was being re-admitted due to an external process, and asked him to start the process and waive the fee. She copied several people on this

high priority email, including the Associate Dean of Graduate Studies for the Faculty of the Environment, his administrative support, and the Head of IT for the Faculty of the Environment, to be sure the applicant's email was re-activated. She testified she sent the email with "high" importance as she wanted to signal that the university was committed to supporting the applicant's timely return to her studies, and she knew the applicant wanted to register for courses, and the deadline was approaching. Once the applicant's registration was re-activated, she would be able to enrol using the university's Quest system.

[54] Dr. Andrey also testified the MOS did not mention course enrolment in Spring 2016 and there was no requirement in the MOS for her to take a course in Spring 2016, which she states was the term running from May to August 2016. She also testified the MOS indicated that the applicant could consider herself full-time enrolled in Fall 2016 and Winter 2017 even though she was only going to be taking two courses in each of those terms, if she had been able to secure an appropriate pre-approved Internship in Spring 2016. She testified that according to the MOS, one of three things would happen in Spring 2016: either the applicant would do her Internship, or as in point 5 of paragraph 4 of the MOS, the applicant would work on a Major Research Paper, or the last option, also described in point 5 of paragraph 4 of the MOS, was that she could opt not to return in the spring, and delay her re-admission to the Fall of 2016. Dr. Andrey testified that the MOS gave the applicant options in order to provide some flexibility and some structure to her. She testified that part of the reason for building in flexibility was to recognize the applicant's health issues, and also the university knows that finding an Internship is not guaranteed and can be challenging for students. Dr. Andrey testified it was also important to build some structure into the MOS as core course offerings are not offered in every term, and it was necessary to be able to align registration with when courses are offered. She testified it was her recollection that the core courses the applicant needed were not offered in Spring 2016, but would have been available in Fall 2016 or Winter 2017. Dr. Andrey testified the MOS make it clear that the applicant had 2 courses and 2 electives to complete, and if core courses were not offered in Spring 2016 and the applicant wanted to take courses anyway, she could take electives. She testified there were numerous elective courses available to the applicant which would meet her degree requirements. Dr. Andrey also testified that the potential supervisors of the applicant's MRP listed in the MOS had all indicated an interest in supervising her, and the applicant would be expected to reach out to them to see who would be best aligned in terms of interests. She testified

she spoke with them in early Fall 2016, but they indicated the applicant had not contacted them. She also testified that it was not necessary for the applicant to do her MRP in Spring 2016, and it would be up to her to decide when to work on it. She testified that the applicant would have been able to do the MRP in a term when she was registered part-time, and fees are based on whether an individual is enrolled full time or part time. She also testified however that doing a 4 month Internship would require full-time enrollment.

[55] Jason Testart, Director of Information Security Systems at the university, testified that he was asked in August 2020 to investigate the applicant's access to the university's systems, including her email and Quest, from Spring 2016 and ongoing. He described Quest as the Student Information System which includes information relating to transcripts, enrollments, and tuition payment. Students log into it using their assigned student identification number and password. For a student to access their email, they needed their user identification (last name and first and middle names if known, to a maximum of 8 characters) and password. He testified that saying the applicant's account was "reactivated" in Spring 2016 was incorrect, as in his investigation, he found she was able to access Quest at all times, as her account had never been inactive. He testified that the applicant was registered in her LED program and would have been able to choose courses in Spring 2016. He also testified that at certain periods of time, Departments may turn certain capabilities on and off, depending on the point in the academic term. He gave as examples the fact that there are only certain times when professors are able to submit grades for students' final transcripts, and that there are course selection periods, meaning here are timeframes where students can and cannot select courses. He stated that this information is published on the university's website. He stated that if a course is full, Quest will not permit someone to sign up for it and enrolment would have to be through an exception procedure involving the instructor filling out a form to override the problem. He testified that Quest is programmed to prevent people from taking courses which are full or courses for which the student is ineligible. Registration in courses in such instances would require an over-ride process, involving instructors or academic advisors or others who have authority to override Quest rules. He testified that the applicant was registered and that tuition fees were assessed for the Spring 2016 term. He also reviewed emails involving a now-retired employee of the university, Marko Dumancic, who had been the Director of IT for the Faculty of the Environment. Mr. Testart noted that in response to an inquiry from Dr. Andrey to reinstate the applicant's account, Mr. Dumancic advised that the applicant's account and password had never been de-activated and the applicant

could still use them to get access to her accounts and to log into Quest and to her email. He testified that in Spring 2016 she had access to information about tuition, but payment is made through the bank, not through the university systems. He also testified that most generic information regarding financial awards for students and course descriptions, were available to anyone in the public.

[56] Mr. Testart testified that in 2016, the first point of contact for IT support was a dedicated Quest Help Desk. It dealt with questions about access, changes to passwords, and offered further support for registration in courses. There was no evidence before the Tribunal that the applicant had attempted to access that service.

[57] The applicant testified that the courses named in the MOS were not being offered in the Spring 2016 term and she looked for electives instead. She testified that she learned what was available by looking in "Quest". She was not sure when she was able to access Quest but agreed that at some point, she was able to do so, though she also noted that in her email to Ms. Williams on May 6, 2016, she stated she had just found out how Quest works. With respect to an April 20, 2016 email to Katherine MacLean where she states that she was "finding that no appropriate graduate spring courses are available to justify paying a full-time tuition rate", she testified she was referring to the courses listed in the MOS, but did not testify how she came to know about course availability by April 20, 2016. She testified that the ENBUS 601 course she identified was offered in an on-line long-distance program. She also testified she learned how to use Quest on May 6, 2016, which was too late for her to be able to register. In view of the April 13, 2016 email to Ms. Williams where she states she has identified the courses she wanted to take, it appears, however, that she may have had access by then. This would be consistent with the results of Mr. Testart's audit.

[58] On April 20, 2016, the applicant wrote the above-referenced email to Ms. McLean, stating that she wished to accept inactive status for the spring term of 2016, as she did not feel the payment she was being asked to make was justified. She indicated that the payment the university sought was fees for a Full Time student. Following that date, she variously inquired into her inactive status and available courses, as well as arrangements for an Internship at SRC.

[59] On April 20, 2016, the applicant wrote to Katherine MacLean, an administrator for the graduate program at the respondent, stating that she needed "clarity regarding tuition

for fall 2016 and Winter 2017 in relation to part-time/full-time status for students with a disability.” She stated that she would be taking 2 courses in the Fall and 2 in the Winter while doing a part-time Internship spread over 8 months as an accommodation. She further stated: “Mainly I am concerned about being charged twice for the internship even though it will still be 4 months of full-time work hours but spread over two terms”. She testified Dr. Singh told her the Internship had to be for 8 months and she would have to pay full time tuition while she was working at the Internship. She also stated that her account was showing tuition for the Spring would be \$2912.98, but she was “finding that no appropriate graduate spring courses are available to justify spending a full-time tuition rate while working part-time hours”. She stated that she was “given the option to go inactive this summer and I would like to accept that option and have it reflected on my account”. She testified that she was being asked to pay for things she had not registered for, and also stated that she did not know if she was being asked to pay for the Internship or for courses.

[60] Dr. Singh testified that he recalled contacting the AccessAbility Support offices on April 20 or 21, 2016, regarding support for the applicant. He testified that he did so as he saw the word “disability” in an April 20, 2016 email to Ms. MacLean, on which he was copied, and that this would have led him to contact the office regarding the applicant returning to school. He testified that he did this to let them know he needed to be advised if there was any information he needed, given his involvement in her file. He testified that they acknowledged receipt of his contact, and knew they could contact him at any point. He testified that for reasons of confidentiality, he would not be involved in the discussion between that office and the applicant, but that he would simply be informed regarding any accommodation he needed to provide. He testified that the AccessAbility Services office did not advise him of any accommodation which he was required to provide to the applicant.

[61] Dr. Gillies testified that on April 21, 2016, Dr. Singh wrote to her asking for confirmation that the applicant was registered with her office. She testified that she emailed him back, stating that at that time, she did not have access to the applicant’s file but would get back to him when she could.

[62] On April 21, 2016, Dr. Singh wrote to the applicant as follows:

In my email dated 13 April to you, I clarified the question concerning about your tuition:

“Tuition: LED is a term-based program, meaning you are paying for the term, not for individual components. So you will need to pay your spring tuition in full, even if you only do half an internship. On the other hand, once you are registered for the term, you can not only do your internship, but also do your courses and the MRP – at no additional cost – depending on what you [sic] able. So it is up to you to design our work plan, but please have it approved by me”.

From your email below [the April 20, 2016 email above], I understand that you now wish to go inactive for the spring term 2016, and start in the Fall 2016. Is this correct? If yes, then please note that any internship you do in this period will not be counted for towards your LED degree requirement.

Please confirm if you wish to go inactive this spring as soon as possible so we can try to have your status registered by the tuition due date: 25 April (Monday). After that, late fees will apply. It takes 2 working days, so I need to know by tomorrow morning at the latest. For this you will need to fill this Change of enrolment status form:

Also, are you thinking of going part time in Fall 2016? If yes, there is a residency requirement that one needs to meet. Please review details here: <http://gradcalendar.uwaterloo.ca/page/GSO-Regulations>

However, I am happy to review any accommodation given to you in this matter.

[63] Dr. Singh testified that a student can choose to take a pause from studies by going inactive, and they do not pay tuition or receive services from the university during that time. He testified that if going inactive and not paying tuition, the applicant could have continued the work at the SRC, but it would not have counted toward her degree.

[64] Dr. Singh then sent a follow-up email, attaching the referenced forms in pdf format in case she decided to change her enrolment status to inactive, stating that he would try to have it processed by Monday, 25th April. He also stated: “If you are not going inactive this spring term, ignore this form”.

[65] The applicant testified that the above emails from Dr. Singh did not answer her questions or address her concerns.

[66] On April 22, 2016, the applicant wrote a lengthy email in reply to Dr. Singh and to Sian Williams. From her email which states that she is unsure if the email from her "Waterloo email" reached them and so also was sending it from her gmail account, it is evident that she had access to her "Waterloo email".. She said she was attaching the completed pdf forms. She also said she had previously been told to check the box for "8-month" co-op, so that her Internship tuition would be priced at a "discount afforded to all other students but not me". She stated that she needed to know why, and that what she was now being told by them did not align with what the Graduate Studies Office (GSO) told her, nor did it align with what Sian Williams and she had previously discussed. She also stated it was her understanding from the GSO that if she took classes off-campus she would be able to pay reduced tuition and that was why she was looking at on-line courses. Further, doing on-line courses would give her the flexibility to work. She also wrote about her initial application to the Tribunal. She stated that she wanted to know "the rates for part-time and full-time studies when the internship is part-time hours and taken with 2 online courses, and again taken with 2 in person courses".

[67] Dr. Singh testified that before the applicant's April 22, 2016 email to him and Ms. Williams, the communication with the applicant had been about courses, Internship, and her MRP. He characterized this email as "sudden" and contained details he was unaware of. He testified that maybe it indicated distrust, and he found the applicant's language in this email to be legalistic. He said it was very different from previous communication he had received from the applicant.

[68] The applicant wrote to Sian Williams again just before midnight on April 25, 2016. She copied Dr. Singh in her email, she stated that she needed Ms. Williams' assistance "to intervene and prevent a repeat of being removed from the program for not paying tuition fees. I never consented to being signed up for my internship. I simply asked how to sign up for the internship to pay my fees while having understood that I can take summer courses at the same time". She stated there had been "no courses available to take in LED [my program] or Economics [my electives] this summer". She stated that Dr. Singh told her she had to "pay this fee twice which is concerning". She also stated that "Dr. Simron [Singh] has been amazing and very helpful; however, he is not responsible for addressing all of my administrative needs. Also, he travels and I was unable to meet with him as soon as I got here last Tuesday April 19, 2016 which is 6 days before the tuition deadline today." She stated that she wanted to know to whom she should be communicating and that she did not want to pay full time tuition fees when she could not

take courses. She stated this was why she wanted to go inactive in the summer and she had communicated that the prior week, before the tuition deadline, but "it feels like it is being held just so I can incur late fees, and have a repeat again of what happened the last time I was removed out of this program". She stated: "I secured part-time internship so I can do 2 courses one term and 2 courses the other effectively paying part-time tuition for 2 semesters". She also stated that she needed the accommodation of doing her 4-month internship over 8 months part-time. In cross-examination, she disagreed that she had applied for inactive status on Friday, April 22, 2016, saying that she had simply been asking for information to apply for inactive status. In this Monday, April 25, 2016 email, however, she stated that she "submitted the proper form to go inactive last week; however it feels like it is being held just so I can incur late fees, and have a repeat again of what happened the last time I was removed out of this program." She says she sent Ms. Williams the "Grad Studies Change of Enrolment Status" form, including her name, the date April 22, 2016, her student I.D. number, the name of her program, stated Spring 2016 as the effective term, and stated the reason for requesting a status change to inactive was "No suitable graduate courses are being offered for my electives", but did not sign it. She testified that she did this so that she would not be charged late fees. In cross-examination, she agreed she had likely requested the form, but stated that she did not want to go inactive, she simply wanted to avoid paying late fees. She testified that she was not really sure if she explained she was not actually applying for inactive status.

[69] Dr. Singh testified that after receiving the April 22, 2016 email to himself and Ms. Williams, which included questions about tuition, he wanted more information and contacted Dr. Parker, the Associate Dean. He testified Dr. Parker told him he would confer with the GSO. He testified that the April 22, 2016 email was received on a Friday, and Dr. Parker told him he would check with the GSO on the Monday. He testified that this prompted a meeting via Skype with individuals at the GSO, including Ms. Williams, on Tuesday, April 26, 2016. He recalled there was discussion around accommodation for the applicant, and she would be offered full-time credit for the part-time Internship to support her, and they discussed the fact that she would have to pay full-time tuition in Spring 2016 for the Internship. He also recalled it was decided that Ms. Williams would write to her, and that she was responsible for correspondence with the applicant regarding accommodation. In cross-examination, the applicant asked him if the MOS said he could stop being the primary contact. He testified that the situation had changed as the applicant was indicating in her correspondence she was going back to the Tribunal and

accordingly it was the decision of legal counsel Ms. Williams that she should contact the applicant. He testified that there seemed to be an escalating situation and his role was not to be involved in a legal process, but rather he had been there simply to help her finish her studies.

[70] Dr. Singh was asked to review the reference to himself in the applicant's April 25, 2016 email and he stated there was no indication from her that she had found him to be anything other than helpful. He also testified that he was not responsible for her communication with the AccessAbility Services office. Rather, his role was to help her with decisions relating to her degree, as the first point of contact. He testified that the fact that he travelled did not prevent him from meeting his obligations in that regard. Given his involvement and communication with the applicant, Dr. Singh testified he did not believe it was accurate for the applicant to have said in her April 25, 2016 email to Ms. Williams that she "never consented" to being signed up for an Internship. He also testified he did not tell the applicant she had to pay tuition twice for the same thing.

[71] On April 26, 2016, the applicant wrote to the GSO and to Sian Williams, with a copy to Dr. Singh, stating she had not registered for an Internship. She stated she was "given the option to come back and finish my graduate studies in Fall 2016 and I want to take it." She stated that she had also "been told that my current position will not count towards an internship in the Fall 2016". She stated she had also left a voice mail at GSO. A few minutes later, on April 26, 2016, she wrote to Sian Williams, stating she was waiting for a reply regarding "this issue". She stated she had not received "any basic accommodations" and she had been misled about the availability of courses and the fees for Internship.

[72] Dr. Andrey testified that full-time enrollment is a requirement for all student Internships in the applicant's program. She testified the expectation is that students enrolled full-time will pay full-time tuition. She testified she was aware that in Spring 2016, Dr. Singh had approved an Internship for the applicant. She testified that normally, a full-time Internship lasts 4 months, but the program has provided flexibility for students to do their Internship over 8 months as an alternative. She testified that this was what Dr. Singh and the applicant had been discussing in April 2016, but when she became aware of his position that the applicant's internship would last 8 months as it was part-time, she recommended he consider the 4 months part time as sufficient. She testified it was at that point that she shared the MOS with him so he could see it would be consistent with

the MOS. She testified she felt at that point it was necessary to share it with him to implement its terms and engage in the right kind of decision-making. She also testified the applicant would not be able to register as part-time or inactive while doing her Internship, and that no other students in the program do that either.

[73] The applicant testified the last email she received from Dr. Singh was dated April 27, 2016. In that email he stated:

I have been discussing your accommodations yesterday, so please know that you are not forgotten. I very much understand your current situation. You will be hearing from us very soon. I look forward to work with you and guide you in your studies.

[74] The applicant asked Dr. Andrey in cross-examination why the last email she received from Dr. Singh was dated April 27, 2016. Dr. Andry testified she understood that at some point, the applicant commented to Dr. Singh that she was going to return to the Tribunal, and she did not know how that may have affected continuing correspondence to her.

[75] In cross-examination, the applicant asked Dr. Andrey if she was allowed to speak to another administrative contact according to the MOS. Dr. Andrey testified that Dr. Singh was her primary contact, but the MOS did not prohibit her from communicating with someone else at the university. Emails before the Tribunal included emails from the applicant to various members of administration at the university, as well as their emails to her. In the time period between the signing of the Minutes of Settlement and this application, she communicated by email with various other individuals at the university, copying them on emails and engaging in direct email communication back and forth with them. She communicated on several occasions with Sian Williams, and also communicated with Katherine MacLean, Lori McConnell, and others. A May 7, 2016 email from Ms. Williams reminds her of the provision in the MOS which requires her to maintain a level of civility in her communications with faculty and staff at the university, it is clear there was no prohibition on her from communicating with others at the university, and communication with others was specifically contemplated in the MOS.

[76] The applicant testified that she was able to email Dr. Singh through the summer of 2016, but there was no dialogue with him. She testified there was no “meaningful relationship” or contact, and she never met him. In cross-examination she testified she had meaningful interactions with him before April 19, 2016 but denied that he had helped

her to get the Internship,² she stated he did not help her find it and he was in fact hindering her. She agreed she became aware of the position at the SRC through something which Dr. Singh had sent to her, and in her letter of application for the position, she stated Dr. Singh had suggested she contact Ms. McLay regarding the “attached work opportunity”. She testified it is not true that Dr. Singh helped her find an Internship, as there is no Internship recorded on her transcript. In cross-examination, she agreed that she had become aware of the opportunity for an Internship position at SRC through Dr. Singh, and also testified that in his April 21, 2016 email to her, Dr. Singh told her it would be up to her to design her work plan and have it approved by him. In cross-examination, the applicant agreed Dr. Singh approved her work at the Centre as an Internship.

[77] Dr. Andrey testified Dr. Singh was chosen as the first contact for the applicant as he had graduate administration experience in the relevant department, they did not believe he had had any previous interactions with the applicant, and he had a reputation as a supportive and gentle advisor and administrator. She testified that when he was selected, they were not aware of his travel plans, nor did the MOS dictate when the applicant would be returning to the university, so it was not clear she would be there in April 2016. She testified she would have been available to Dr. Singh for him to consult if it had been necessary. She testified that Dr. Singh’s role in Spring 2016 would have been to ensure the applicant had the same access to information regarding Internships as did other students, and he had the option to provide her with information regarding Internships he may have known of, and he would approve her Internship. If the applicant had chosen to work on an MRP that term, Dr. Singh’s role would have been to encourage her to contact any of the 3 people identified in the MOS, and the academic matters would be dealt with by one of the potential supervisors listed at point 7 in the MOS. She testified she did not believe it was necessary for Dr. Singh to discharge his obligations in person as emails and Skype provided ways for students to get the information they needed. She testified he did not need to be in Waterloo to approve an internship. She testified it is not uncommon for faculty members to be absent from the university, as they may have research programs which take them out of the country.

[78] On April 28, 2023, Ms. Williams wrote to the applicant, copying Dr. Andrey and Dr. Singh, stating that the MOS indicate that her registration status while doing her Internship would be full-time, and she must pay the full-time tuition fee to the respondent for that period. She stated that as the applicant knows, she is required to do an Internship for four months. She also stated the applicant’s internship for the part-time employment at

the Survey Research Centre has been approved as meeting the Internship requirements for her program. She states:

The Faculty of the Environment is aware that it is part-time employment rather than full-time employment, but the Faculty is prepared to accept the four month internship which is now composed of part-time employment, as constituting the full requirements for the Internship. Again, your registration status while doing your internship must be full-time and you must pay the full tuition fee.

[79] Ms. Williams also stated that she understands the applicant applied for inactive status during the Spring 2016 term. She states this is fine, but if she is inactive, none of her activities during that period would count towards her degree requirements. She repeats: "The Minutes of Settlement indicate clearly that you must be enrolled full-time while doing the internship, and that you must pay the full tuition fee". She also included a link regarding financial support for full-time graduate students.

[80] Later in the morning of April 28, 2023, the applicant responded to Ms. Williams. She stated that the MOS state she "gets to choose whether to be full-time or part-time". She also stated she understands full-time fees are reduced during an Internship and she has made an inquiry regarding the "discount". She asks why she should have to pay full-time tuition if her Internship is not full-time. She also asks "are you saying that my part-time internship over 4 months will satisfy the full-time internship now, and that I do not have to do it over 8 months?" and "are you saying that despite starting my internship all ready;[sic] that I can use this position for the Fall 2016 term" and "paying full-time tuition means having a full-time course load so if I can use this same part-time position to satisfy my internship requirement in Fall 2016 while taking 2 electives at the same time, then I am comfortable paying full-time fees since I would in [sic] a full-time course load".

[81] Dr. Singh also testified his information to the applicant regarding tuition, namely that she would have to pay full-time tuition for the Spring 2016 term for an Internship, did not change as a result of the April 26, 2016 meeting he participated in with members of the GSO. In cross-examination, the applicant asked him if it was fair that she would be required to pay full-time fees in the Spring 2016 term when her Internship was only to be part-time. He testified that she would be permitted to count her part-time Internship as a full-time one to satisfy degree requirements, as an accommodation, but that for the term when she did the part-time internship, she would be paying full-time fees. He testified this would benefit her as she would be allowed to work half the number of hours at her

Internship as would have been required for a full-time Internship, and yet it would satisfy her degree requirements. He also noted she had written to him about doing courses and an MRP, a load which would have indicated full-time tuition would be owing.

[82] When the applicant asked in cross examination regarding provisions in the MOS at paragraph #4, point 4, indicating she could consider herself full-time, Dr. Andrey testified those provisions related to the Fall 2016 and Winter 2017 terms. She testified that for an Internship, the applicant was to be registered full-time, and this was reflected in the MOS at paragraph #4, point 2.

[83] Dr. Singh advised her that if she decided to take inactive status, she could not be considered to be completing an Internship.

[84] On April 29, 2016, the applicant wrote an email to "Waterloo Graduate Studies", copying Ms. Williams and Dr. Singh. She stated, among other things, that when she checks her account, it indicates "fees owing". She stated she felt they were "intentionally delaying the processing of my inactive status to remove me from my program against my will". She stated she wanted her status "to return to inactive immediately without incurring any fees". Among other things, she also states:

I never consented to going active this Spring/Summer and simply asked for instructions on how to register for my then approved internship. This internship has started and now I am being told that I it [sic] won't count by Dr. Simron for the Fall 2016 term, and then Ms. Williams is saying that it can. So in the absence of clarity, I am not comfortable making hasty financial decisions. Both Dr. Simron and Ms. Williams are copied on this email.

I understand that full-time tuition is different from part-time tuition. I keep getting conflicting information about the length of my internship, and if it is approved. I am being told that despite my internship being "part-time" over 8 months instead of full-time in 4 months that I have to pay Full-time tuition fees twice when there are established full-time and part-time tuition fees at Waterloo. This seems erroneous.

I have the choice to go inactive for this term and have been forced to submit the change of enrolment status to avoid late fees and being removed permanently from my program. I did this in line with Dr. Simron Singh's timeline, the form is attached & he is copied, but my account is still showing fees online [time stamped screen shot attached from today].

Why have I not been granted inactive status yet?

Who can I address to answer my questions regarding tuition rates for part-time and full-time course loads please?

Can you please answer these questions and let me know what is stopping you from processing my change of status, you have had my form since April 22, today is April 29?

[85] The applicant attached to the email the Graduate Studies Change of Enrolment Status document she had completed, indicating the reason for wanting to change her status to inactive was "No suitable graduate courses are being offered for my electives".

[86] On May 5, 2016, the applicant emailed Ms. Williams, Karen Persaud at the university, and Dr. Singh. She stated: "I started my internship and so far it looks like I will be working 12 hours per week but this can be more or a bit less based on scheduling". She stated she had found online courses she could take in environmental business, and wanted to register for them as soon as possible as she believed she had until mid-May, 2016 to do so. She also asked: "Can we agree to allow me to go inactive for the Fall 2016 since I will be done my internship & 2 electives this summer provided the mandatory courses stipulated on our agreement are available [only 2 left and a paper?]" She stated that this would leave her with 2 courses to do in Winter 2016 and a paper, pending course availability. She wanted to know how to register for the courses. In her email she asked how to pay, and "is the amount still \$2913[rounded up]? As this is what Dr. Simron [Singh] said regarding being able to take courses while paying this fee at no additional charge". She stated she did not want to be behind in the classes as she understood they have already started. The applicant testified Dr. Singh had not been available to her and Ms. Williams was not interested in assisting her to find courses. She testified she was copying Dr. Singh on the correspondence, but he was not responding. She testified these were courses from his department and she was complying with the terms of the MOS by copying him on the correspondence.

[87] On May 6, 2016, the applicant again emailed Ms. Williams, copying Dr. Singh and Karen Persaud, stating in part as follows:

I just learned how Quest works, and classes started this week on May 2, 2016, and I do not appreciate being held in the dark for weeks so I can be behind when I was here as early as April 19, 2016. The online classes I need to you register me in/approve are ENBUS 632; Sustainability Reporting & ENBUS 601; Business and the Case for Sustainability.

[88] The applicant also expresses displeasure with having to wait for answers, accuses Ms. Williams of stalling and of bad intentions, and states she will be filing with the Tribunal if her situation is not resolved by end of day Friday May 6, 2016, and she has been “documenting all of these abuses”. She identified the classes she needed Ms. Williams to register her in. She indicated she had begun drafting an application to the Tribunal.

[89] On May 7, 2016, Ms. Williams wrote back to the applicant. She states in part as follows:

I am writing again to respond to your many recent emails to various individuals on campus, and to your email below.

[applicant's name], you only informed me by email two days ago, on Thursday, May 5, 2016, that you wished to take ENBUS 601 and ENBUS 632. I remind you that over the last two weeks you have repeatedly asked for an inactive status in the Spring 2016 term, and you have written to the Graduate Studies Office to ask that this be reflected in your registration and tuition fees. You had also already selected your elective courses for the Fall 2016 term.

Now you are suddenly asking to register for courses in the Spring 2016 term. It is very difficult to respond to your requests immediately as every few days you are changing your mind on what course you wish to be registered in, and what you would like to achieve here at the University of Waterloo...

Furthermore, I must again ask you to communicate politely with myself and others on campus. As per Section 4 of the Minutes of Settlement which you signed on March 8, 2016, you are required to maintain a level of civility in emails when corresponding with the faculty and staff of the University of Waterloo....

Dean Jean Andrey has advised that you cannot take ENBUS 601 as it is a core MEB course. It is only available to MEB students. As you are an LED student, the ENBUS 601 course is not available to you.

You may however take ENBUS 632 and ENBUS 612 as graduate-level electives, and you may do the four-month internship at the same time. Please contact Ms. Teresa Wilson..., the program coordinator, for a permission number to take these two courses. Please note that the ENBUS courses have higher course-based fees which you will likely have to pay if you wish to take these courses. Again, you must be enrolled as a full-time student and pay the tuition fees in full for this Spring 2016 term.

You may also go inactive in the Fall 2016 term, but only if you are not working with your advisor on your major research paper. If you are working on the major research paper in the Fall 2016 term, then you must have active registration and you must pay the tuition fee in full.

If you decide to do the major research paper and the two remaining courses in the Winter 2017 term, you must be enrolled as a full-time student and you must pay the tuition fees in full.

You will have already received a letter from Accessibility services yesterday in regard to your accommodation needs.

[90] The applicant testified she felt Ms. Williams' email was condescending and failed to acknowledge her patience. She testified the respondent was "adamant that I pay full-time whether I am full-time or not". She stated that Ms. Williams did not address her questions. She testified she had finished half of the program, and there were only two electives, a major research paper and an Internship left for her to complete. She noted that Ms. Williams directed her to Ms. T. Wilson for permission to take the courses, not to Dr. Singh. She testified that Ms. Williams was only letting her take ENBUS courses, which are more expensive.

[91] On May 10, 2016, the applicant wrote again to the GSO, copying Dr. Singh, Sian Williams and Kathleen Rybcznski at the university, asking that her inactive status be processed immediately. She also stated this would be the last email she would send to them where the Tribunal was not included. She continued, stating, among other things, that she had been unable to read the May 7, 2016 email from Sian Williams, "as her tone and demeanor in it were unacceptable". She stated she had been asking about her courses and fees and:

...eventually I had to escalate to Ms. Williams since the deadline for tuition arrived and everyone, including Dr. Simron [Singh] intentionally left me in the dark about the processing of my inactive status, securing accommodations & learning the correct tuition fees for part-time and full-time students as well as for students with disabilities.

Since no one is giving me consistent & accurate information about tuition fee status differences; I cannot choose to be full-time or part-time as our agreement details; and in the absence of a primary contact and being able to get accommodations – I need to go inactive as I sort this out legally since it is clear Waterloo is trying to abuse me further as I am being put up to fail and collapse.

[92] At the bottom of the email, the applicant added her "summary of what has happened so far". There, she states that "no primary contact of any kind exists, no contact of any kind exists". Dr. Singh testified this was incorrect, as he had been the primary contact. He also testified he was aware that she had communicated with others at the university. She also repeated her position that the "internship is part-time but tuition for it

is some-how full-time". She also stated "Dr. Simron never returned any of my calls or requests to meet". Dr. Singh testified that they were in communication by email and he had been responding to her up to the time of the April 26, 2016 meeting when Ms. Williams took over. The applicant also states in her summary that she:

had no choice and escalated to Ms. Williams as I was being threatened with late fees despite arriving in Waterloo on April 19, well before April 25, and despite asking about my courses/fees over and over and over again via email which eventually I had to escalate to Ms. Williams since the deadline for tuition arrived and everyone, including Dr. Simron intentionally left me in the dark about the processing of my inactive status, securing accommodations & learning the correct tuition fees for part-time and full-time students as well as for students with disabilities.

[93] Dr. Singh was asked if he had left the applicant in the dark and he testified he had not. He testified he had sent her a link to the correct form for choosing inactive status. He testified he also discussed options with her, including doing a part-time Internship, and had participated in a meeting where her part-time Internship was agreed as meeting the degree requirements for a full-time Internship. He testified that he sent her two emails regarding tuition.

[94] The applicant testified that when she sent the May 10, 2016 email she was feeling frustrated and demeaned and "realized they won't let me register". She testified that she confirmed her need to "go inactive" as she needed to maintain her status.

[95] The applicant testified that the "common understanding" is full-time status is different for persons with a disability. She stated that for a person without a disability, 3-4 courses per term would mean full-time status, but that that number is reduced for persons with a disability. She testified that when she signed the MOS, she believed references to "full time" would be different for her as a person with a disability. She stated she needed accommodation to study part time only. She testified she was not permitted to register on a part time basis, which is what she believes the MOS permitted. She testified that she needed a reduced course load and a four month Internship. When asked in cross-examination if four courses is a full-time course load for a person with no disability, she said it depends on the program and the university. She said she wanted to only take two courses and to be able to choose her status, as full-time or part-time. She testified she believed if she was enrolled in two courses, she could consider herself to have full-time status. She agreed she received Dr. Singh's April 13 and April 21, 2016 emails where he advised that the LED program is a term based program and no matter

how many courses you take, you pay the same for the term. She agreed she was being asked to pay \$2912.98 for the term and when Dr. Singh told her she had to pay in full, she knew the amount due.

[96] Dr. Casello testified that to have a status at the university, students must be registered. Once registered, a student may be full-time, part-time or inactive. He testified that students can ascertain “their status by looking in their Quest account.

[97] With regard to accommodation of a disability in Spring 2016, Dr. Gillies identified an email that was circulated for all students in the database of the office of AccessAbility Services. She confirmed the applicant was still in their database at that time. The email included a link to a document for students needing academic accommodation that term to complete and submit, indicating the courses in which they were enrolled, among other things. Dr. Gillies stated that if a student is not taking courses, the office cannot provide them such support. It depends, she said, on the student to inform the office of the courses being taken. She testified she found no record of the applicant having submitted that form at that time. She testified the applicant asked for a meeting and for assurances that her file would be handled properly, but Dr. Gillies did not recall the applicant stating she needed assistance with facilitating something. She also testified that for students doing an Internship, her office could provide a letter. Attached to a May 6, 2016 email to the applicant, Dr. Gillies provided a “to whom it may concern” letter, summarizing accommodations for Spring 2016.

[98] In her June 7, 2016 letter to the respondent, Dr. Morgan stated that the applicant continued to experience high levels of stress “in response to her current academic situation” and that:

[her] academic situation is not consistent with her understanding of arrangements that would be in place for her in the May to August 2016 term. Her understanding is that she would be able to register in a part-time internship and two courses in the May to August 2016 term. Because these arrangements are not in place, she applied for inactive status before the deadline but as of this date (June 7, 2016) her application for inactive status has not been approved. Due to her resulting symptoms, which significantly interfere with her daily functioning, she is not able to continue her studies.

[99] She also testified that when she wrote that letter, she had not seen the Minutes of Settlement.

[100] The applicant testified she scheduled a meeting with her supervisor, Beth McLay, at the SRC for July 7, 2016. She testified that she wrote an email to Ms. McLay on July 7, 2016, before the scheduled meeting time, so she would know what the applicant wanted to discuss. In her email, she asked "Has Dr. Simron Singh notified you, after approving my internship, that I have a disability and need accommodations? When was the last time that contact was established?" She requested additional shifts, and says she was "supposed to do courses this summer in addition to this internship, however, Dr. Simron Singh and my department had not facilitated this and I have time that I need to fill". She stated she wanted to "finish the internship by August 2016". She testified Ms. McLay did not attend at the scheduled meeting, but sent her an email the following day.

[101] On July 8, 2016, Ms. McLay wrote to the applicant apologizing for having missed their meeting and suggesting that they reschedule. She stated Dr. Singh had not advised her of the applicant's need for accommodation and asked if she intended to seek accommodation for her position at the Survey Centre. She stated she and the applicant's new manager would like to meet with her in order to "understand the timing and paperwork required for your internship". In the applicant's testimony, she noted Ms. McLay was making reference to her "Internship".

[102] On July 11, 2016, the applicant wrote to Ms. McLay regarding her accommodation needs and requesting a reference letter at the end of August, 2016. She also stated she was:

having some challenges with my department/program at this time and the best thing I can do right now is to document that I have honoured my end of the agreement of coming to Waterloo this summer to fulfil my approved 4-month internship requirement at the Survey Research Centre, University of Waterloo.

[103] She testified that when she sent her email, it was too late for courses, and she was "trying to save the internship". She testified the Centre had told her she would be getting 15 hours, but she was not getting them.

[104] The applicant received an "Accommodation Agreement Re: work requirements for [A.B.]," which stated that "The University of Waterloo agrees to accommodate [A.B.] in

her casual position of Telephone Interviewer.” The document included a description of the accommodation the applicant required.

[105] On July 15, 2016, Karen Parkinson, Occupational Health nurse at the respondent wrote to the applicant stating:

I am told by your manager (Beth) that this is not an Internship, rather, you are a casual employee here at UW. I won't be able to change this until I receive direction from your managers. Please discuss this with them first and I will wait to hear confirmation.

[106] Dr. Andrey testified that provided Dr. Singh had approved the Internship, her work at the Survey Centre would have been considered an Internship to satisfy the degree requirement, notwithstanding Karen Parkinson's view. She testified that similarly, it did not matter what the view of the Survey Centre was in determining whether it was an Internship or not. She testified she did not discuss this issue with the applicant.

[107] The applicant testified that since April 20, 2016, her work at the Survey Centre had been considered an Internship, but now in July 2016 they were telling her it was not an Internship.

[108] The applicant asked Dr. Singh in cross-examination if he knew she was told in July 2016 that her work at the SRC was not an Internship. He stated this was the case because in May 2016 she went inactive and once a student chooses inactive status, what they are doing in that period of time does not count for their degree requirement.

[109] The applicant testified that in her view Beth McLay did not want to provide her with accommodation. She asserted that the services of the Occupational Health nurse for issues of accommodation are used only for employees, not for students. In her testimony she asserted this was “psychological torture for fun”, and that she was being tortured due to racism. In her testimony, she asserted “everything they do is with intention”. She also asserted everything in the MOS was misrepresented by Sian Williams and the Tribunal Vice-Chair assigned to her original application. She testified the university has known since 2012 that she needed accommodation and they have been acting in bad faith and want her to fail.

[110] On July 29, 2016, the applicant wrote the following email to Michelle Hollis at the respondent, and copied Karen Parkinson, Beth McLay, and Tracy Morgan:

Hi everyone,

1. The draft of my accommodations has been made. Waterloo University's insistence on not wanting to accurately describe this position as an internship is what is holding the process back. Conduct meetings with your people.

2. I will only present to 'sign' a legitimate form that we have discussed with the proper description of my 4-month internship as an internship. There is no purpose in having any meetings with me because I am not the one holding up this process. You are.

3. This form needs to be emailed to me prior to me coming in to simply sign it once Waterloo decides to call this position what it is, an internship.

4. I am giving you until August 10, 2016 to come to a formal decision explaining why you are refusing to give me accommodations & why you are insisting on defrauding my internship as an internship despite having provided documentation confirming the facts.

5. Hxxxxx Sxxxx and Dxxxx Txxxxx [sic] are students at Waterloo University. Both have mental disabilities, and both have received immediate accommodations as students at Waterloo University. Both of them are white and I am not. They do not work for the Survey Research Centre. I have been asking for accommodations for 4 years since 2012. This is called racism & discrimination.

If you do not intend on giving me accommodations and confirming my internship, simply say so in writing. I am not willing to allow you to misrepresent me or allege any more falsehood against me. I am giving you until August 10, 2016 to give me a final decision since everyone is going on vacation.

I remain committed to my side of the settlement agreement and to finishing my master's degree at Waterloo University.

[111] On August 5, 2016 the applicant received word that she was not scheduled to work at the Survey Research Centre for the two weeks starting August 8, 2016 and ending August 21, 2016. On August 19, 2016, she was told she was not scheduled to work at the Survey Research Centre for the two weeks starting August 22, 2016 and ending September 4, 2016. The applicant alleged that this was by way of reprisal and due to antisemitism. These are not issues before the Tribunal in this application made pursuant to section 45.9 of the *Code*.

DECISION

[112] Section 45.9 of the *Code* provides for applications filed alleging a contravention of a settlement:

45.9 (1) If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, the settlement is binding on the parties. 2006, c. 30, s. 5.

Consent Order

(2) If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, the Tribunal may, on the joint motion of the parties, make an order requiring compliance with the settlement or any part of the settlement. 2006, c. 30, s. 5.

Application where contravention

3) If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, a party who believes that another party has contravened the settlement may make an application to the Tribunal for an order under subsection (8),

(a) within six months after the contravention to which the application relates; or

(b) if there was a series of contraventions, within six months after the last contravention in the series. 2006, c. 30, s. 5.

(8) If, on an application under subsection (3), the Tribunal determines that a party has contravened the settlement, the Tribunal may make any order that it considers appropriate to remedy the contravention. 2006, c. 30, s.

“Retroactive Withdrawal”

[113] The applicant seeks to have the MOS set aside as she submits that they were fraudulently entered into. The Tribunal has found that it does not have the jurisdiction to set aside MOS where an individual files an application regarding a violation of terms of the MOS (see for example *Lafond v. Hopital Montfort*, 2020 HRT0 CanLII 133, para 22). In any event, the applicant alleges fraud on the part of the respondent because she made the above-noted inquiry to Ms. Williams about “retroactive withdrawal” in 2014, prior to the 2016 MOS, and was told this could not be done as it would be fraud. She asserts that subsequently, she learned “retroactive withdrawal” could occur and was done for a white acquaintance of hers. The applicant relies heavily on language in *Bhasin v. Hrynew*, [2014] 3 SCR 494, regarding the requirement for honest dealings between contracting

parties. She cites portions of the headnote and the “Cases Cited” and in particular, she quotes the Supreme Court’s assertion regarding a general duty of honesty: “I would hold that there is a general duty of honesty in contractual performance. This means simply that parties must not lie or otherwise knowingly mislead each other about matters directly linked to the performance of the contract.” She alleges that when the university executed MOS with her, it was dealing with her in bad faith and its representations to her had been dishonest, as “retroactive withdrawal” had in fact been available to her.

[114] The university submits that the Tribunal has set out the elements that the applicant must make to establish a claim of fraudulent misrepresentation (see *Dawson v. Eclipse Advantage Canada ULC*, 2016 HRTO 1469 at para 10-12 citing *O’Regan v. Firestone Textiles*, 2010 HRTO 502 at para 20):

- d. A representation was made;
- e. The representation was false in fact;
- f. The maker knew or ought to have known that the representation was false;
- g. The representation induced the Applicant to sign the MOS; and
- h. Upon learning that the representation was false, the Applicant elected to act within a reasonable time.

[115] Looking at the correspondence upon which the applicant relies, her email on July 26, 2014 spoke of “backdated withdrawal like I never went into the program”, and this was consistent with what she said she sought when she questioned Dr. Casello in the hearing and also with her July 26, 2014 correspondence to Jim Frank which prompted the August 13, 2014 response email from S. Williams. The evidence before the Tribunal does not establish that the university makes such a process available to anyone. Dr. Morgan testified she understood that if a student withdraws from a course after the deadline for withdrawal, there is a notation on the student’s transcript which indicates they withdrew without academic penalty. This would still reflect the fact that the student was enrolled in the course. According to Dr. Casello, the term “retroactive withdrawal” is not one normally used by the university. When the applicant explained at the hearing that she was seeking to have reference to the courses she took expunged from her transcript, he testified that under its Policies, the university does not provide alterations to a Transcript which would expunge reference to the courses taken by a student. He spoke about the Petition process, available under Policy 70, which could result in no mark for a course being

displayed on a transcript, but the transcript would nonetheless indicate the student had taken the course. According to Dr. Andrey, “backdated withdrawal” and “retroactive withdrawal” are not terms which reflect the university’s practice and policy. She too testified that on an exceptional basis, marks may be ignored for the purposes of calculating a student’s average, but there is nonetheless an indication on the transcript that the student was enrolled in and completed the course. She spoke about the importance of the accuracy of transcripts, which can be used for scholarship decisions, admissions decisions, or employers.

[116] It appears then that the most the university would have made available to the applicant, or to any student, would have been a transcript which did not include a mark for the particular course, but which would nonetheless include an indication that the student had enrolled in and completed the course. This could have occurred had the applicant filed a successful Petition under Policy 70. The applicant did not do so. Instead, she filed a Grievance which was a Notice of Challenge, and indicated at the time that she had read and understood Policy 70. Further, there was no evidence that Policy 70 was hidden from the applicant at any time, and the evidence indicates that it was available at all relevant times on the university’s webpage. It does not appear there was ever any process available to make her transcript appear “like [she] never went into the program”. The assertions the applicant makes regarding what her former fellow student was afforded are hearsay, but in any event, there is nothing to indicate the applicant’s former fellow student had all reference to her courses removed from her transcript. In all of these circumstances, the Tribunal does not find that the applicant was misled by Ms. Williams who in response to the applicant’s question about a process which would make it look as though she had never gone into the program, told her in albeit rather harsh terms, that such a process was not available.

[117] The scope of this application, filed under section 45.9, is properly limited to whether there has been a breach of the MOS. The question of whether these MOS were reached due to fraudulent misrepresentation, and should be set aside, however, was one the applicant clearly sought to place before the Tribunal in her evidence and submissions. While such a question is beyond the scope of an application filed under section 45.9, if the Tribunal were to consider the applicant’s evidence and submissions in this regard, for all of the reasons above, it would dismiss her assertion that due to Ms. Williams’ July 2014 response to her, she was fraudulently induced to enter into the MOS in March, 2016.

[118] The applicant also submits the university has been dishonest as in its response to the original application, which was the subject of the relevant MOS, as the university portrayed her as a poor student. She alleges that they were knowingly dishonest about her academic aptitude and alleges they defrauded her grades. She asserts the MOS were "signed on the pretext" that she was a "poor student while the University of Waterloo withheld the documents requested by [the applicant] to prove they were knowingly dishonest about [the applicant's] academic aptitude and actually defrauded her grades". As noted above, she also makes argument regarding the way in which the university did or did not comply with the CAD regarding production, which was issued by the Vice-Chair in the original application, an application which is not before the Tribunal.

[119] The university denies that it has been dishonest or has acted in bad faith and in any event submits that reliance upon its response to the original application is erroneous, as its response is "not evidence, it is a 'pleading', statement of position that may or may not ultimately be proven". It also submits that reliance upon the response is contrary to the Release which the applicant signed when she signed the MOS. It submits that she knew or ought to have known that the allegations contained in the Response were included in the Release.

[120] The MOS contain a release which releases the university from all claims, demands, actions, causes of action, applications, complaints or causes for complaint up to the date of the MOS which arise out of or in any way related to the Application or the allegations or events set out in the Application or related documents. The Tribunal is persuaded that the Response document falls within the group of documents referenced in the Release. In any event, fundamentally, when faced with a response to an application, it is not expected that an applicant would agree with all of the contents of the response, just as it is not expected that the respondent would agree with all of the contents of the application itself. There may be things in either document which the party averring may or may not be able to prove at a hearing, and there may be things against which the opposing party will or will not be able to successfully defend. In deciding to settle a dispute, parties are cognizant of the fact that litigating their dispute involves risks and they know that at the end of litigation, they may or may not be successful. In settling the dispute itself, however, they make the decision to forego their opportunity to prove the other side wrong, and they also eliminate the risk that they may not be successful at litigation. It can be presumed that when faced with the university's response to her original application, the applicant was not pleased with, nor did she accept as true, the

university's various assertions. She could have proceeded to a hearing in order to attempt to test the university's assertions there. She did not do so. Rather, she executed the MOS and Release. Accordingly, the Tribunal does not consider at this time her assertions regarding the veracity of the positions described in the university's Response to her original application, which has now been settled. Further, as noted above, the university's responsiveness to a Case Assessment Direction regarding production, issued in the course of litigation of the original, now-settled, application, is not a matter properly before the Tribunal in this Application.

[121] In view of the above, the applicant's request to set aside the MOS on the basis that she asserts that the university's Response to her original application was not honest, and on the basis that it did not act in good faith in the course of litigation of the previous application, would be dismissed if it were properly before the Tribunal.

Availability of Dr. Singh

[122] The applicant stated several times over the course of the hearing that she was only permitted to contact Dr. Singh. This is not reflected in the MOS, nor is it reflected in the applicant's own actions, or the university's response to the fact that she contacted others. In short, in compliance with the MOS, the applicant contacted numerous other individuals at the university, and the university permitted her, even encouraged her, to do so. The MOS listed professors she was permitted to work with in completing her MRP. Clearly, she was expected to communicate with at least one of those individuals, though the evidence does not establish that she did so. The MOS stated that she "must maintain a level of civility in emails when corresponding with the faculty and staff of the Respondent". Again, it is clear that the parties to the MOS expected that she would be in communication with others at the university. Her own emails entered into evidence at the hearing indicate that she communicated with several other individuals at the university, and they in turn corresponded with her. Indeed, the applicant herself recognized this in her April 25, 2016 email to Ms. Williams when she stated "Dr. Simron has been amazing and very helpful; however, he is not responsible for addressing all of my administrative needs".

[123] Despite characterizing him as "amazing and very helpful" in her April 25, 2016 email, the applicant complains that Dr. Singh was not available to her. The MOS state that Dr. Singh was to have been her "first and primary contact for the Applicant and as

the decision-maker in consultation with the Associate Dean of Graduate Studies of the Faculty of the Environment, for all matters pertaining to the Applicant, as the Applicant works towards completing her Master's degree in the LED Program". Dr. Singh testified he understood his role as assisting the applicant with respect to completing her program.

[124] The MOS was signed on March 8, 2016. The applicant agreed Dr. Singh was available at the university to her from that time until she arrived at the university on April 19, 2016. Certainly, there are emails between the applicant and Dr. Singh before that date. Following that, he made himself available to the applicant by email. Further, he was in contact by email and Skype with others in respect of the applicant. He contacted Dr. Gillies to be sure he was aware of any accommodation he was to have been providing; and he emailed Dr. Parker and participated in a Skype meeting on April 25, 2016 regarding the applicant. He directed the applicant toward the Internship opportunity at the SRC and gave a positive recommendation for her there. He approved the part-time Internship there for her as fulfilling the degree requirements for Internship. He corresponded by email to the applicant and in addition to suggestions, information, and encouragement, he provided her with two reminders regarding the tuition deadline and sent her a link regarding courses. A review of his communications with her and his efforts on her behalf does not support a finding that not meeting in person detracted from his ability to meet the obligations assigned to him in the MOS.

[125] The last email from Dr. Singh to the applicant was dated April 27, 2016. Given his ability to correspond with her and to advocate on her behalf prior to that date, it is not evident that the reason he stopped communicating directly with her was distance. Rather, according to Dr. Singh's testimony, the character of the applicant's emails, as she began to talk about a return to the Tribunal, had changed. He did not see his role as participating in litigation, and was told that Ms. Williams, the university's counsel at the time, would address such matters. The MOS gave Dr. Singh responsibility to be the applicant's primary contact as she worked towards completing her degree. While the applicant's emails leading up to April 27, 2016, did include questions and complaints about courses, and tuition, etc., her emails had begun to include references to her intention to involve the Tribunal, and therefore are references to the litigation process. In these circumstances, it is not surprising Dr. Singh did not see it as part of his assigned role to respond to such communication. While it may be that the university would have been better to communicate this clearly to the applicant, the Tribunal is not persuaded that Dr. Singh did not fulfill the obligations assigned to him in the MOS.

[126] Finally, the Tribunal does not find the evidence establishes that Dr. Singh “ensured that confusing and inconsistent messaging was communicated to the applicant” Whether the applicant became confused about communication with people at the university, the evidence does not establish that Dr. Singh “ensured” that there was confusion. On the basis of the evidence before it, in particular his evidence regarding the efforts he made on the applicant’s behalf, and his email communications to her, the Tribunal is satisfied that Dr. Singh discharged his obligations under the MOS in good faith.

Part-time/Full-time Enrollment and Tuition

[127] The applicant stated she should have had the opportunity to enroll on a part-time basis, due to her disability, and she should have had the option of being considered full-time in any event. This Application is an application alleging a contravention of the MOS. In the MOS, the parties agreed that the applicant was required to complete a four month Internship, during which she must be enrolled full-time and pay the full tuition fee in regard to the full-time enrollment. In his April 21 email, Dr. Singh stated the applicant would have to pay full-time tuition if she was working toward her Internship, but also stated it was open to her to take courses or work on her MRP. Dr. Andrey testified that she recommended they recognize the half-time Internship being proposed for the Spring 2016 as fulfilling the applicant’s degree requirements to complete a 4 month full-time Internship. Dr. Singh testified this proposal was accepted at the April 26, 2016 meeting. It was then confirmed to the applicant by email from Ms. Williams on April 28, 2016. In other words, though she was only going to have to work half of the required hours, she would get full-time credit. As stated in the MOS, she was required to pay full-time tuition when working on her Internship. That the university required her to pay full-time tuition while working on her part-time internship, which would count as a full Internship, was not a violation of the MOS.

[128] If she was working on her Internship in the Spring 2016 term, the MOS clearly state she was to have been enrolled full-time and she was to have paid full-time tuition fees. If she did course work only, or the MRP, or a combination of those two, the MOS do not address whether she would be full-time enrolled or part-time enrolled, nor do they address whether she would have to pay full-time tuition fees or part-time tuition fees during that term.

[129] The only other provisions in the MOS which address whether the applicant is considered full-time or part-time enrolled relate to the Fall 2016 and Winter 2017 terms which are not at issue in this application.

[130] The Tribunal does not find that the university's requirement of full-time enrollment and payment from the applicant for the Spring 2016 term was a contravention of the MOS and this allegation is dismissed.

Access to Email

[131] The applicant wrote to Ms. Williams and Terri Rau on April 13, 2016, indicating, among other things, that she needed access to her university email. Ms. Williams responded promptly, telling her the account was accessible using her old password and her student number remained unchanged. According to the review conducted by Mr. Testart, the applicant's university email had continued to be active throughout, and was active on April 13, 2016. He stated that for students to access their email, they needed their user identification which is their last name, first name and middle name, if known, and their password. On April 22, 2016, the applicant wrote an email to Dr. Singh and Ms. Williams and referenced having sent it also from her university email.

[132] In the MOS, the university committed to un-blocking her email account "once the Applicant registers with the Respondent and pays her tuition in full". Mr. Testart testified that her email account was never inactive. On the basis of the evidence before it, and in view of the fact that the applicant indicated she sent the April 22, 2016 email from her university email as well as her gmail account, the Tribunal finds that the applicant had access to her university email account by April 22, 2016 at the latest, and it was not blocked. There is no evidence before the Tribunal that the applicant had registered and paid her tuition in full before that date, as was contemplated by the MOS, yet the email account was available to her. Accordingly, the Tribunal does not find that the university contravened the provision of the MOS which relates to the applicant's university email.

[133] The applicant also alleges that she had difficulty registering for courses and making the required payments due to not being able to access her email account at the respondent. The applicant testified about her difficulty with the university's Quest system. Her testimony was inconsistent regarding when she was able to navigate it, saying that she had been able to navigate it by no later than April 20, 2016, but also saying she

learned to use it on May 6, 2016. She also wrote an email to Ms. Williams on April 13, 2016, identifying courses she wanted to take. She also wrote in an email on April 20, 2016 to Ms. McLean that she wanted to take inactive status for the Spring 2016 term, as she did not feel that the payment she was being asked to make was justified. From the evidence it is clear that by that time, she had also been pursuing an Internship for the term, and had been able to identify courses of interest to her, and she was actively involved in setting up an Internship. She disagreed with the amount of tuition she was told she would have to pay, and by April 20, 2016, was telling the university that she was opting for an "inactive" status. In the circumstances, the Tribunal is not persuaded there was a problem with her university email which prevented her from registering for courses and making the required payments, or which would constitute a contravention of the settlement.

[134] For all of the above reasons, this application is dismissed.

ORDER

[135] Finally, as noted above, the Tribunal granted the applicant permission to record this process. In view of this, the Tribunal hereby orders as follows:

1. The applicant is directed not to share or publish any of these recordings, or any portion of these recordings, by way of the internet, social media, print, or by any other means.

Dated at Toronto, this 1st day of August, 2023.



Maureen Doyle
Vice-chair



Certificate of Certificat de
Canadian Citizenship Citoyenneté canadienne

*The Minister of Immigration, Refugees and
Citizenship hereby certifies and declares that*

*Le ministre de l'Immigration, Réfugiés et
Citoyenneté certifie et déclare par la présente que*

ALEXA BASEESO

*is a Canadian citizen and, as such, is entitled to
all the rights and privileges and bears all the
responsibilities, obligations and duties of a
Canadian subject.*

*est citoyen /ne canadien /ne et, à ce titre, jouit de tous
les droits et privilèges d'un sujet canadien et assume
l'ensemble des responsabilités, obligations
et devoirs qui lui incombent.*



1996/08/29

K2512569

Effective / En vigueur

A handwritten signature in black ink, likely of the Minister of Immigration, Refugees and Citizenship.

*Minister of Immigration, Refugees and Citizenship
Ministre de l'Immigration, Réfugiés et Citoyenneté*



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RESULTS FOR POLICE RECORD CHECK LEVEL 3-VULNERABLE SECTOR CHECK (Sec. 1-3)

ALEXA BASEESO
19 KEDGEWICK COURT
NEPEAN, ONTARIO
K2G 4M9

DATE OF REQUEST: 2024-12-02
REQUEST NUMBER: 2024-15588380
DATE OF BIRTH: 1983-05-25
REQUESTING AGENCY: UBER

NOTE: The Youth Criminal Justice Act (YCJA) restricts individuals from sharing records made under that Act. Findings of guilt and other dispositions under the YCJA may not be reported on this response.

SECTION 1: RESULTS FOR RCMP NATIONAL REPOSITORY CRIMINAL RECORD CHECK

☐	INCOMPLETE	Based solely on the name(s) and/or the date of birth provided, a search of the RCMP National Repository of Criminal Records could NOT be completed. Positive identification that a criminal record does or does not exist requires the applicant to SUBMIT FINGERPRINTS to the RCMP National Repository of Criminal Records; which has NOT been done. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records. ☐ FINGERPRINT SUBMISSION REQUIRED
☒	NEGATIVE (Not confirmed by prints)	Based solely on the name(s) and date of birth provided, a search of the RCMP National Repository of Criminal Records did NOT identify any records with the name(s) and date of birth of the applicant. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by FINGERPRINT comparison. Delays do exist between a conviction being rendered in court, and the details accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.
☐	NEGATIVE (Confirmed by prints)	Based on the fingerprints, name(s), and date of birth submitted by the applicant, this message certifies that a search of the RCMP National Repository of Criminal Records did not identify any records associated with the applicant that may be disclosed in accordance with federal laws. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.
☐	CRIMINAL RECORD (Confirmed by prints)	Based on the fingerprints, name(s), and the date of birth submitted by the applicant, this message certifies that a search of the RCMP National Repository of Criminal Records identified that the fingerprints submitted by the applicant were certified as identical to fingerprints registered under a criminal FPS Number. Delays do exist between a conviction being rendered in court, and the details accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records. This document may not contain all criminal records associated with the applicant. ☐ SEE ATTACHED POLICE RECORD CHECK SUPPLEMENTARY INFORMATION FORM FOR DETAILS
☐	CRIMINAL RECORD (Not confirmed by prints)	Based solely on the name(s) and date of birth provided, a search of the RCMP National Repository of Criminal Records has resulted in a possible match to a registered criminal record. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by fingerprint comparison. As such, the criminal record information declared by the applicant does not constitute a Certified Criminal Record by the RCMP. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records. This document may not contain all criminal record convictions associated with the applicant. ☐ SEE ATTACHED POLICE RECORD CHECK SUPPLEMENTARY INFORMATION FORM FOR DETAILS ☐ FINGERPRINT SUBMISSION REQUIRED

SECTION 2: RESULTS OF INVESTIGATIVE DATABANK AND LOCAL INDICES SEARCH

☒ **NEGATIVE** – No information was revealed that can be disclosed in accordance with federal laws and RCMP policies
☒ **POSITIVE** – ☐ Criminal Record ☐ Outstanding Entries ☐ Non-Conviction Records for Public Safety
☐ SEE ATTACHED POLICE RECORD CHECK SUPPLEMENTARY INFORMATION FORM FOR DETAILS

SECTION 3: RESULTS OF VULNERABLE SECTOR CHECK ONLY

☒ A search of sex offenders who were granted a record suspension (pardon) was conducted. No information to release.
☐ A search of sex offenders who were granted a record suspension (pardon) was conducted. Information authorized for release.
☐ SEE ATTACHED POLICE RECORD CHECK SUPPLEMENTARY INFORMATION FORM FOR DETAILS

☐ Response(s) have not been received from all police agencies to previous addresses

Date Completed: 2024-12-02

Badge Number: 91985

Personal Information contained in this form is collected pursuant to the Community Safety and Policing Act S.11 and is collected for the purpose of processing this police record check. Questions concerning this collection should be directed to:

Background Clearance Section of the Ottawa Police Service
P.O. Box 9634 Station T, Ottawa, ON K1G 6H5

Click here to verify Digital Signature

Digitally certified by Ottawa Police Service
Reason: VULNERABLE SECTOR CHECK
Time: D:20241202190655Z



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